

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS Zykeem Johnson

DEFENDANTS B. Fisher, ?. Yoder, ?. Shope,
?. Killinger and ?. Rivello

 (b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

 County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input checked="" type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. § 1983

Brief description of cause:

Failure To Protect

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

 DEMAND \$
\$500,001.00

 CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

FORM TO BE USED BY A PRISONER IN FILING A CIVIL RIGHTS COMPLAINT
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

(1) Zykeem Johnson, #KJ-8494 :
(Name of Plaintiff) (Inmate Number) :
1111 Altamont Blvd. :
(Address) :
Frackville, PA. 17931 :
(2) (Name of Plaintiff) (Inmate Number) :
(Address) :

(Each named party must be numbered,
and all names must be printed or typed)

vs.

CIVIL COMPLAINT

(1) Unit Manager B. Fisher :
(2) Correctional Officer Yoder :
(3) Correctional Officer Shope :
(Names of Defendants) :
(4) Correctional Officer Killinger :
(Each named party must be numbered,
and all names must be printed or typed) :
(5) Deputy Superintendent Rivello :

FILED
SCRANTON

Per Amo
CLERK

TO BE FILED UNDER: ☒ 42 U.S.C. § 1983 - STATE OFFICIALS
☐ 28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. PREVIOUS LAWSUITS

A. If you have filed any other lawsuits in federal court while a prisoner, please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

No previously lawsuits

II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

In order to proceed in federal court, you must fully exhaust any available administrative remedies as to each ground on which you request action.

- A. Is there a prisoner grievance procedure available at your present institution? ☒ Yes ☐ No
- B. Have you fully exhausted your available administrative remedies regarding each of your present claims? ☒ Yes ☐ No
- C. If your answer to "B" is Yes:
1. What steps did you take? I filed an inmate grievance, #779522-19, to completion including all available appeals.
 2. What was the result? Denied at each level.
- D. If your answer to "B" is No, explain why not: _____

III. DEFENDANTS

- (1) Name of first defendant: B. Fisher
 Employed as Unit Manager at S.C.I. Smithfield
 Mailing address: 1120 Pike St. Huntingdon, PA. 16652
- (2) Name of second defendant: ? Yoder
 Employed as Correctional Officer at S.C.I. Smithfield
 Mailing address: 1120 Pike St. Huntingdon, PA. 16652
- (3) Name of third defendant: ? Shope
 Employed as Correctional Officer at S.C.I. Smithfield
 Mailing address: 1120 Pike St. Huntingdon, PA. 16652
- (List any additional defendants, their employment, and addresses on extra sheets if necessary)

IV. STATEMENT OF CLAIM

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach no more than three extra sheets if necessary.)

1. On December 18, 2018, approximately 3:10 p.m., Plaintiff arrived at the Behavioral Management Unit, ("BMU"), to conduct his scheduled rounds as a Certified Peer Support Specialist, ("CPSS").

2. Plaintiff was informed by defendant Killinger he would have to engage in an one-on-one meeting with inmate Coit. Plaintiff objected and informed defendants Killinger and Shope that Coit had threatened to throw feces and physically harm him.
3. Plaintiff was forced to meet with Coit over his objections. Shortly thereafter defendants Killinger and Shope escorted Coit to the dayroom unrestrained. Immediately upon entering the dayroom defendants Killinger and Shope (see attached)

V. RELIEF

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. Enter declaratory judgment stating that the actions/inaction of the defendants constituted deliberate indifference to Plaintiff's health and safety in violation of Plaintiff's Eighth and Fourteenth Amendment rights.
2. Award monetary damages in the following amounts: (1) ~~\$150,000.00~~ compensatory damages; (2) ~~\$350,000.00~~ punitive damages; (3) \$1.00 nominal damages jointly and/or severally against the defendants to this action. Any other relief the Court deems equitable or just or to which it appears Plaintiff is entitled.
- 3.

ADDITIONAL DEFENDANTS

(4) C.O. ?. Killinger

Employed as Correctional Officer at S.C.I. Smithfield

Mailing Address: 1120 Pike St. Huntingdon, PA. 16652

(5) ?. Rivello

Employed as Deputy Superintendent at S.C.I. Smithfield

Mailing Address: 1120 Pike St. Huntingdon, PA. 16652

ADDITIONAL FACTS

locked the door.

(4) Inmate Coit said to Plaintiff "I told you I was going to get you" and began to viciously attack Plaintiff.

(5) During the assault inmate Coit repeatedly hit Plaintiff in the face, neck, back, head and midsection.

(6) The attack on Plaintiff continued until defendant Killinger indiscriminately sprayed OC (pepper-spray) into the room.

(7) As a result of the OC spray Plaintiff was temporarily blinded, gasping for oxygen and defenseless.

(8) Following the employment of OC spray inmate Coit briefly stopped his assault on Plaintiff but quickly resumed the assault as the responding officers encountered difficulties opening the door.

(9) Inmate Coit was ultimately subdued and plaintiff was escorted to the medical department where he received medical treatment.

(10) On or about December 12, 2018, prior to the assault, Plaintiff informed defendant Yoder that Coit had threatened to kill him due to Plaintiff's refusal to pass contraband.

(11) In response to that information defendant Yoder told Plaintiff that "Coit is a nut case."

(12) Before then, December 11, 2018, Plaintiff informed defendant Fisher that inmate Coit requested he pass contraband to which he refused.

(13) Plaintiff further informed defendant Fisher that Coit called Plaintiff a "fucking cop" and a "bitch ass nigger" and threatened to throw "shit" on him and "beat him the fuck up."

(14) Defendant Fisher's response to that information was simply "Coit is crazy and a lost cause."

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 31st day of October, 2020.

3ykeem Johnson
(Signature of Plaintiff)

Saturday October 31st, 2020

Zykeem Johnson
D.O.C # KJ8494
SCI - Frackville
1111 Altamont Boulevard
Frackville, Pennsylvania 17931

RE: Administrative Fee (\$50.00)

Dear Clerk of Court,

My name is
Zykeem Johnson, D.O.C number: KJ8494.
I am an inmate at Pennsylvania
State Correctional Institution -
Frackville. En-closed in this envelope
is a Civil Rights complaint I wish
to file immediately. Accompanied with
my Complaint is a check for the sum
amount of \$400.00 USD. \$350.00 is to
pay for my civil Rights Complaint filing
fee in its entirety. The additional \$50.00
is to pay for the Administrative Fee if
applicable.

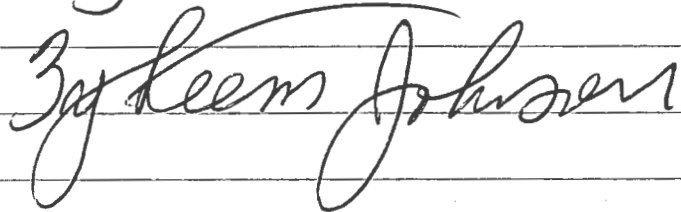
If the \$50.00 Administrative
Fee is not applicable due to me not asking
or needing to file In Forma Pauperis to
proceed with my Complaint. Can you please
return the additional \$50.00 to me after
you deduct \$350.00 from the \$400.00 Sum.

If The Administrative Fee is applicable,
Please retain the whole sum of \$40000,
and process my complaint.

Thank you for your time and civil
Services.

Respectfully Written,

Zykeem Johnson

A handwritten signature in cursive script that reads "Zykeem Johnson". The signature is fluid and matches the printed name above it.

Keem Johnson
D.O. C# KJ8494
SCI-Frackville
1111 Altamont Boulevard
Frackville, Pennsylvania 17931

INMATE MAIL
PA DEPT OF CORRECTIONS



ZIP 17932 \$ 003.17
Q2 4M
0000364159 NOV 12

Care of: Clerk of Court
United States District Courthouse
235 N. Washington Avenue
P.O. Box 1148
Scranton, Pennsylvania 18501

\$

